

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

JASON CHARLES YAEGER,)

Defendant.)

4:03CR3034

**MEMORANDUM
AND ORDER**

Given the emergency nature of the motion filed by Jason Charles Yaeger yesterday afternoon, I conferred with the lawyers by telephone this morning and heard their arguments. Mr. Yaeger originally sought to be released to be with his dying child, but I am informed that the child passed away early this morning. Counsel for Yaeger now wants me to order the warden to release the defendant to attend the funeral.

First, I compliment the warden for treating Mr. Yaeger and his family humanely. The warden allowed Mr. Yaeger at least four escorted trips to visit with his child since the fall of last year when it became apparent that the child would die. The warden's kindness began long before some in the electronic press turned this into a depressing circus. I assume that same humanity will be displayed when the warden decides whether to release Mr. Yaeger to attend the funeral.

Second, I had the raw power to release Mr. Yaeger earlier and I have the raw power to force the warden to release Mr. Yaeger today. I intentionally did not to do so before and I will not presume to tell the warden what to do now. Mr. Yaeger's motion, predicated solely on 28 U.S.C. § 2255, lacks legal merit. No more words are needed.

IT IS ORDERED the motion under 28 U.S.C. § 2255 (filing 100) is denied.
A separate judgment will be issued.

March 28, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge